



July 26, 2019

VIA U.S. MAIL AND ELECTRONIC MAIL

Honorable Linda L. Lofthus, Presiding Judge
Superior Court of California, County of San Joaquin
180 East Weber Avenue, Suite 1306J
Stockton, CA 95202
grandjury@sjcourts.org

Re: Grand Jury Report: Tracy City Council: Restore the Public Trust 2018-2019 Case No. 0418

Honorable Judge Lofthus:

This letter is the Tracy City Council's official response to the above-referenced Grand Jury Report in accordance with California Penal Code sections 933 and 933.05. The City Council reviewed and thoughtfully considered the Grand Jury's Report. The City Council approved the responses contained in this letter and authorized the City Manager to execute this letter at its July 2, 2019 Council meeting.

1.0 ETHICS POLICY

F 1.1 The Tracy City Council's failure to agree on an Ethics Policy is reflective of the Council's inability to agree on the fundamentals of how to work together as an effective governing body.

- City's Response: The City agrees with this finding.

F 1.2 The Tracy City Council's failure to prioritize the establishment of an Ethics Policy conveys a message to Tracy residents that ethical behavior by the City Council is not of paramount importance.

- City's Response: The City agrees with this finding.

F 1.3 The adoption of an Ethics Policy will provide the Tracy City Council with a tool to hold fellow members accountable for their actions.

- City's Response: The City agrees with this finding.

R 1.1 The Tracy City Council create and adopt an Ethics Policy that governs the behavior of its elected officials, appointed officials, and senior staff by October 31, 2019.

- City's Response: This recommendation has not yet been implemented. The City will endeavor to draft and adopt an Ethics Policy by October 31, 2019.

R 1.2 *The Tracy City Council develop a "Rules of Behavior" document to be distributed to each Council member and posted in the Council Chambers and the closed meeting rooms by October 31, 2019.*

- City's Response: This recommendation has not yet been implemented. Rules regarding expectations for City Council's behavior and norms would be included in the City's Ethics Policy.

2.0 CITY COUNCIL CONDUCT

F 2.1 *The petty bickering between Tracy City Council members during Council meetings has diminished their ability to effectively conduct the public's business and has undermined the public's trust in the Council.*

- City's Response: The City agrees with this finding.

F 2.2 *The lack of an Ethics Policy restricts the ability of Tracy City Council members to hold one another accountable for violating established ethical standards.*

- City's Response: The City agrees with this finding.

F 2.3 *The discord amongst Tracy City Council members is obvious to viewers of Council meetings, although the Council members themselves seemingly fail to recognize this reality.*

- City's Response: The City disagrees partially with this finding; individual Council members did recognize the discord amongst the Council body.

F 2.4 *Unethical conduct during the 2018 election campaign further damaged Council members' ability to work together.*

- City's Response: The City agrees with this finding.

R 2.1 *Tracy City Council members publicly agree to set aside their personal differences and conduct the public's business in an efficient and respectful manner, by October 31, 2019.*

- City's Response: This recommendation has not yet been implemented. The anticipated adoption of an Ethics Policy will serve as an opportunity for the Council as a body to proclaim its commitment to work together collaboratively.

3.0 COUNCIL VACANCY APPOINTMENT PROCESS

F 3.1 *The appointment process used by the Tracy City Council to fill Council vacancies has fostered loyalty, allegiance, and personal obligation by appointed Council members and has resulted in consistent voting blocs and facilitated divisiveness amongst the Council members.*

- City's Response: The City disagrees partially with this finding; it is unclear that the appointment process resulted in consistent voting blocs and facilitated divisiveness. However, alternative appointment methods could be explored in the future.

F 3.2 *The appointment process used by the Tracy City Council to fill Council vacancies does not take into account the will of the voters and has not been endorsed by Tracy's electorate.*

- City's Response: The City disagrees partially with this finding; the appointment process provides an opportunity for Council members, as elected officials themselves, to take into the will of the voters during the appointment process.

R 3.1 *The Tracy City Council adopt a resolution for filling Council vacancies that is more responsive to the voice of the voters by appointing the next highest vote-getter from the previous election by December 31, 2019.*

- City's Response: This recommendation requires further analysis and discussion. Staff will develop and present alternative Council vacancy selection processes for consideration.

4.0 IMPACT OF EXECUTIVE STAFF SEPARATIONS

F4.1 *The rapid succession of executive staff terminations and forced resignations created an unstable work environment for the City of Tracy's staff as department leadership was dismantled. The instability created an unnecessarily stressful work environment which was compounded by fear of job loss.*

- City's Response: The City agrees with this finding; the rapid succession of executive staff terminations and forced resignations may have contributed to an unstable working environment for the City of Tracy staff as department leadership dismantled. The instability may have contributed to an unnecessarily stressful work environment which was compounded by fear of job loss.

F4.2 *The Tracy City Council's lack of transparency further eroded the public trust and caused many to speculate that power politics was the catalyst for unexplained departures of the City's professional leadership team.*

- City's Response: The City agrees with this finding.

F4.3 *The City of Tracy's reputation as a desirable employer was damaged by the series of unexplained terminations and forced resignations. This unstable environment made recruiting for open positions substantially more difficult.*

- City's Response: The City disagrees partially with this finding; the City of Tracy's reputation as a desirable employer may have been damaged by the series of unexplained terminations and forced resignations. This unstable environment may have made recruiting for open positions more difficult.

R 4.1 The Tracy City Council amend the Tracy City Municipal Code to require a supermajority vote of four (4) members of the City Council to remove the City Manager or City Attorney, by December 31, 2019.

- City's Response: This recommendation requires further analysis and discussion. Staff will evaluate the proposed ordinance amendment.

5.0 COUNCIL INTRUSIONS IN CITY OPERATIONS

F 5.1 *The Tracy City Council has failed to follow their policy by intruding into the responsibilities of City staff. This has negatively impacted staff morale and the effective operations of City business.*

- City's Response: The City agrees with this finding.

F 5.2 *Individual Council members have intimidated staff by giving orders that are in direct opposition to departmental procedures.*

- City's Response: The City agrees with this finding.

F 5.3 *The professional recommendations of City of Tracy staff may be tempered by the potential consequences of disapproving Council members due to fear of potential job loss.*

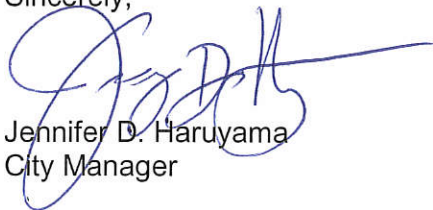
- City's Response: The City agrees with this finding.

R 5.1 *The Tracy City Council develop and implement a written protocol for sanctions or censure of Council members who violate the Tracy Municipal Code by failing to work through the City Manager to conduct City business, by December 31, 2019.*

- City's Response: This recommendation requires further analysis and discussion. Staff will present options for accountability measures to be included in the Ethics Policy.

Thank you for providing the City of Tracy opportunity to comment on this important report. Please let us know if additional information is required or if you have any questions.

Sincerely,



Jennifer D. Haruyama
City Manager